

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 1:13-cv-12660-FDS

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SHIRLEY BARNES	:	
Plaintiff(s),	:	<b>MDL No. 2419</b>
v.	:	<b>Master Docket No. 1:13-md-2419-FDS</b>
UNIFIRST CORPORATION, A/D/B/A UNICLEAN CLEANROOM SERVICES	:	<b>Honorable F. Dennis Saylor</b>
Defendant.	:	<b><u>DEMAND FOR JURY TRIAL</u></b>

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**CORRECTED SHORT FORM COMPLAINT  
AGAINST UNAFFILIATED DEFENDANTS**

Plaintiff, Shirley Barnes, complaining against the Defendant, allege(s) as follows:

**FIRST COUNT**

1. Pursuant to MDL Order No. 7, entered in In Re: New England Compounding Pharmacy, Inc. Products Liability Litigation, Master Docket No. 1:13-md-2419-FDS, the undersigned counsel hereby submit this Short Form Complaint and Jury Demand against the Defendants, and adopt and incorporate by reference the allegations in the Plaintiffs' Master Complaint, with attachments, and any and all amendments thereto.

2. Plaintiff is a resident of the State of Indiana.

3. Plaintiff brings this action:

On behalf of herself/himself.

As the representative of \_\_\_\_\_, who is a living person.

As the Administrator, Administrator ad Prosequendum, or other representative of the Estate of \_\_\_\_\_ (hereinafter “Decedent”), who died on \_\_\_\_\_.

4. Plaintiff asserts that the Plaintiff was administered New England Compounding Pharmacy, Inc. (“NECC”) drug Depo-Medrol (methylprednisolone acetate) (hereinafter referred to as “NECC drug”), causing injuries and damages.

5. The aforesaid administration of the NECC drug occurred on: July 3, 2012 and September 19, 2012, by Gene Grove, M.D., at ASC Surgical Ventures, LLC d/b/a O.S.M.C. Outpatient Surgery Center, located in Elkhart, Indiana.

6. Plaintiff adopts and incorporates by reference the following Causes of Action asserted against the Defendants in the Master Complaint:

- COUNT II: NEGLIGENCE AND GROSS NEGLIGENCE (Against UniFirst)
- COUNT III: NEGLIGENCE AND GROSS NEGLIGENCE (Against Clinic Related Defendants)
- COUNT IV: VIOLATION OF CONSUMER PROTECTION STATUTES (Against Clinic Related Defendants)

Plaintiff(s) allege violation of the following consumer protection statute(s): Ind. Code Ann. 24-5-0.5-1 *et seq.*

- COUNT VI: VIOLATION OF M.G.L. C. 93A (Against UniFirst)
- COUNT VII: BATTERY (Against Clinic Related Defendants)
- COUNT VIII: FAILURE TO WARN (Against Clinic Related Defendants)
- COUNT IX: TENNESEE PRODUCT LIABILITY CLAIMS (Against Tennessee Clinic Related Defendants)
- COUNT X: AGENCY (Against Clinic Related Defendants)
- COUNT XI: CIVIL CONSPIRACY (Against Clinic Related Defendants)

- COUNT XII: WRONGFUL DEATH PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)
- COUNT XIII: LOSS OF CONSORTIUM (Against UniFirst and Clinic Related Defendants)
- COUNT XIV: PUNITIVE DAMAGES (Against UniFirst and Clinic Related Defendants)

7. Plaintiff has sent or served the pre-suit notice or demand requirements necessary to bring the claims set forth below, as required under M.G.L.C. 93A. See attached demand letter sent on December 18, 2013, pursuant to Massachusetts General Laws, Chapter 93A, § 9. Plaintiff does not now assert but will seek leave to amend to assert the following claims promptly after the time period for giving notice has expired:

Count VI

8. Plaintiff Shirley Barnes claims to have suffered the following injuries as a result of the administration of NECC's drug: headaches, dizziness, fatigue and anxiety.

WHEREFORE, Plaintiff demands Judgment against the Defendant awarding compensatory damages, punitive damages, attorneys' fees, interest, costs of suit, and such further relief as the Court deems equitable and just.

Plaintiff reserves the right to amend this Complaint to add allegations and claims against individuals or entities currently omitted (in light of the Court's order permitting a Master Complaint naming defendants affiliated with NECC and currently participating in mediation by December 20) and to add or amend allegations against Defendant named herein based, in part, on further discovery.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury.

Respectfully submitted:

PRICE WAICUKAUSKI & RILEY, LLC

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Counsel for Plaintiff

Date: December 20, 2013

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of December, 2013, I caused a copy of the above Corrected Short Form Complaint Against Unaffiliated Defendants to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

/s/ Jamie R. Kendall  
Jamie R. Kendall